

PURCHASING AND LICENSING COMMITTEE

12-0552R

RESOLUTION IN THE MATTER OF THE ON SALE CLUB LIQUOR
LICENSE OF RIDGEVIEW COUNTRY CLUB, 700 WEST REDWING
STREET.

CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On September, 5, 2012, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Ridgeview Country Club, 700 West Redwing Street, and has submitted its report to the city council of the city of Duluth as Public Document No. _____;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on December 17, 2012, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. _____ regarding any suspension, revocation and/or civil penalty relating to the on sale club liquor license of Ridgeview Country Club, 700 West Redwing Street, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the Duluth City Council fine the licensee \$500 payable within 30 days of final city action.

Approved as to form:



Attorney

AGTC/CLK JJC:mao 11/19/2012

Alcohol, gambling and tobacco commission discussion of 9/5/12: The Alcohol, Gambling and Tobacco commission (AGTC) held a hearing on September 5, 2012, regarding the on sale club liquor license of Ridgeview Country Club. The police department conducted alcohol compliance checks on April 12, 2012, and the bartender was issued a ticket for selling alcohol to an underage individual. According to City Code, the licensee is responsible for the actions of the employees, and the licensee was issued a ticket for an illegal sale and for sale to a non-member of the club. This was the first offense since 2009 and the AGTC fined the licensee \$500 which is accordance with the guidelines set forth in Section 8-9 of the City Code.

CITY OF DULUTH
ALCOHOL, GAMBLING AND TOBACCO COMMISSION

REPORT TO THE CITY COUNCIL

IN THE MATTER OF: **Ridgeview Country Club**, 700 West Redwing Street, Duluth, Minnesota 55803.

The above-entitled matter came on for hearing before the Duluth Alcohol, Gambling and Tobacco Commission on September 5, 2012, in the City Council Chambers in Duluth, Minnesota. The hearing record closed on September 5, 2012 upon completion of the hearing.

Terri L. Lehr, Assistant City Attorney, City of Duluth, Office of the City Attorney, 410 City Hall, Duluth, Minnesota, 55802, appeared on behalf of the City licensing staff. Clint Johnson, authorized agent, appeared on behalf of the Licensee.

This Report is a recommendation, not a final decision. The Duluth City Council will make the final decision after a review of the record which may adopt, reject or modify the Findings of Fact, Conclusion and Recommendations contained herein. Pursuant to Minn.Stat. §14.61, the final decision of the Council shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by the Report to file exceptions and present argument to the City Council. Parties should contact the City Clerk to ascertain the procedure for filing exceptions or presenting argument.

FINDINGS OF FACT

The commission makes the following findings of fact.

1. Licensee is licensed by the City of Duluth to sell intoxicating liquor "on-sale Sunday/club" at the premises located at 700 West Redwing Street, Duluth, Minnesota.
2. On April 12, 2012, an employee of Licensee was issued a citation for sale of intoxicating liquor to a person under the age of 21 in violation of Duluth City Code section 8-28. The employee was convicted of the violation on April 23,

2012.

3. The Licensee was also issued a citation under Duluth City Code section 8-35 for the illegal sale and for sale to a non-member of the club or member guest and convicted of these offenses on May 7, 2012.
4. The Commission then issued its Notice of and Order for Hearing and set a hearing date of September 5, 2012.
5. This is the Licensee's first violation for purposes of the presumptive penalty schedule provided for in Duluth City Code section 8-9.

CONCLUSIONS

Based upon these facts, the commission makes the following conclusions:

1. Section 8-9(b)(1) of the Duluth City Code provides that the violation of any law relating to the operation of a liquor establishment shall be deemed to be good cause for disciplinary action up to and including imposition of a civil penalty, license suspension or license revocation.
2. Section 8-35 of the Duluth City Code provides that the licensee shall be responsible for the conduct of its place of business and any violation of Chapter 8 of the Duluth City Code committed on the licensed premises by an employee of the licensee shall be deemed the act of the licensee as well as the employee.
3. The Licensee is liable for the violation occurring on its licensed premises on April 12, 2012.
4. Section 8-9(c) of the Duluth City Code provides that the presumptive penalty for the current violation is a \$500 civil penalty.


RECOMMENDATION

It is the recommendation of the Duluth Alcohol, Gambling and Tobacco Commission that the Duluth City Council impose a civil penalty as follows:

1. Payment of a \$500 penalty; and
2. Pursuant to Duluth City Code Section 8-9(c), the civil penalty is due and payable within 30 days of council action.

Dated: 10/3/12

DULUTH ALCOHOL, GAMBLING
AND TOBACCO COMMISSION

By: 
Chris Pekkala, President

STIPULATION

In re: Ridgeview Country Club, 700 West Redwing Street, Duluth, Minnesota.

The parties to this Stipulation are the City of Duluth and the Ridgeview Country Club, Licensee.
The parties hereby stipulate as follows:

1. The Ridgeview Country Club is the holder of an "on sale" Sunday/Club intoxicating liquor license issued by the City of Duluth at a premises located at 700 West Redwing Street, Duluth, Minnesota.
2. J.D. Feriancek is the Vice-President of Ridgeview Country Club and is authorized to act on its behalf.
3. The Duluth Alcohol, Gambling and Tobacco Commission has jurisdiction over a license and enforcement issue involving a violation occurring at the Licensee's premises on April 12, 2012.
4. The Notice of and Order for Hearing was served on the Licensee by U.S. mail on July 12, 2012 and Licensee acknowledges proper service of the same.
5. Licensee admits the allegations contained in the Notice of and Order for Hearing.
6. Licensee waives the right to a hearing.
7. Although licensee waives its appearance at the hearing scheduled for September 5, 2012 and is in agreement with the presumptive penalty of a \$500 civil fine, a representative of licensee will be in attendance if the commission has any questions or concerns.
8. Licensee requests that the Duluth Alcohol, Gambling and Tobacco Commission impose the presumptive penalty of a \$500 civil fine.

Dated: July 27th, 2012.

CITY OF DULUTH

By Tellie S. Selu
Assistant City Attorney (#191668)

Printed Name: _____

RIDGEVIEW COUNTRY CLUB

By [Signature]
Its VICE PRESIDENT